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Human Rights Committee

Concluding observations on the second periodic report of Turkmenistan

Addendum

Information received from Turkmenistan on follow-up to the concluding observations*

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Information in response to the concluding observations of the Human Rights Committee on the second periodic report of Turkmenistan on the implementation of the International Covenant on Civil and Political Rights

1. In accordance with paragraph 53 of the concluding observations, we are hereby submitting information on the implementation of the recommendations made by the Committee in paragraphs 17 (secret detention and enforced disappearances), 21 (torture and ill-treatment) and 23 (treatment of prisoners).

Paragraph 17

2. The legislation of Turkmenistan on combating trafficking in persons is based on the Constitution, and such issues are dealt with under the Act against Trafficking in Persons of 2016. The Act provides for a set of measures aimed at preventing trafficking in persons (art. 18) and the procedures for granting persons the status of trafficking victim (art. 24).

3. The National Action Plan to Combat Trafficking in Persons for the period 2016–2018 was approved on 18 March 2016 by a presidential decision. That comprehensive document outlines specific measures aimed at combating such trafficking.

4. The Criminal Code lays down the penalties for the killing of a person known by the perpetrator to be defenceless and for the killing of a person involving abduction or hostage-taking (art. 101); it also lays down the penalties for cruel treatment of a minor or person known by the perpetrator to be defenceless or who is financially or otherwise dependent on the perpetrator, and also of a person who has been abducted or taken hostage (art. 113).

Paragraph 21 (a)

5. The Ministry of Internal Affairs is taking effective measures and improving the approaches and methods used by the relevant units of special institutions to prevent persons serving sentences of deprivation of liberty from being subjected to torture or ill-treatment. First and foremost, the officials' obligation to comply with the established rules governing the serving of sentences has been reinforced, and the supervision of operations and training activities for prisoners has been strengthened.

6. Since article 182[1] (Torture) was introduced to the Criminal Code, no cases involving offences of this type have been examined by the courts.

7. Turkmen legislation establishes liability for the use of violence or bullying by law enforcement officers against persons involved in criminal proceedings for the purpose of obtaining testimony, as well as criminal liability for abuse of authority.

8. Article 227 of the Code of Criminal Procedure prohibits the use during pretrial investigations of violence, threats or other unlawful measures and the endangerment of the lives or health of those involved.

Paragraph 21 (b)

9. Training on the Convention against Torture and the absolute prohibition of torture, on the rules, instructions and methods for the interrogation of persons held in custody, and on the medical treatment of persons under any form of detention or imprisonment is provided to officer students of the police and others attending courses at the Ministry of Internal Affairs Institute and during in-service and legal training courses for personnel of the relevant units of the internal affairs agencies.

10. In order to provide specific training for staff who deal with detainees or are involved in the investigation and documentation of cases of torture on how to identify signs of

torture and ill-treatment, regular courses are organized for personnel working in correctional institutions run by the Ministry's Penal Correction Department and its local units on the international conventions and treaties to which Turkmenistan is a party and also on the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Code of Conduct for Law Enforcement Officials and the Principles of Medical Ethics (for doctors working in correctional institutions), among other instruments.

11. Furthermore, seminars, courses and training sessions covering the aforementioned international standards for the treatment of prisoners are organized periodically at the Ministry of Internal Affairs Institute in cooperation with international organizations, notably the Organization for Security and Cooperation in Europe (OSCE) Centre in Ashgabat, and with the participation of the Institute's instructors. They are also provided within the framework of the measures and work plan agreed between the Government of Turkmenistan and the International Organization for Migration country office in Turkmenistan. In addition, study visits are organized to other countries.

Paragraph 21 (c)

12. Under article 8 of the Penalties Enforcement Code, convicted prisoners have the right to submit proposals, statements and complaints to the administration of the penal institution in which they are being held, its supervising body and other authorities, the courts, the procuratorial authorities and civil society associations, and — if all domestic remedies have been exhausted — to international human rights organizations.

13. Prisoners may submit proposals, statements and complaints, including on issues involving violations of their rights or legitimate interests. The proposals, statements and complaints may be oral or written. They are examined without delay by the administration of the penal institution concerned.

14. Prisoners have the right: to explain themselves; to address proposals, statements and complaints in their native language or a language in which they are proficient; if necessary, to use the services of an interpreter in accordance with the established procedure; and to receive psychological assistance from the resident psychologist of the correctional institution or other qualified individuals.

15. Proposals, statements and complaints from prisoners in a military penal enforcement section are forwarded to the recipient by the administration of the penal enforcement authority. Prisoners serving other types of sentence transmit proposals, statements and complaints independently.

16. Prison administrations and penal enforcement authorities receiving proposals, statements or complaints from prisoners must examine them within the prescribed period and communicate any decision taken to the prisoner concerned.

Paragraph 23 (a)

17. Places of detention are subject to regular monitoring by the Oversight Commission of the Ministry of Internal Affairs Penal Correction Department, which periodically visits inmates and looks into their situation and conditions of detention.

18. The regulations on oversight commissions were approved by a presidential decision of 31 March 2010. These commissions conduct visits to places of deprivation of liberty in line with their annual plans. There were 57 visits to correctional facilities, remand centres and the special rehabilitation centre between April 2010 and 2014 and 9 such visits in 2015 and 2016.

19. The oversight commissions, which are independent bodies, monitor the extent to which correctional institutions comply with the law and with the procedures and conditions

for the detention of convicts; provide adequate living and sanitary conditions; involve convicted prisoners in socially useful work; provide medical care; comply with legal standards on parole for convicts and substitution of milder forms of punishment for part of their sentences; organize and permit visits from relatives or other persons to convicted prisoners; and comply with the procedure whereby prisoners may transmit, receive or send packages, parcels, remittances and correspondence.

20. The Ministry of Internal Affairs cooperates closely with the International Committee of the Red Cross (ICRC) and OSCE on issues relating to access for representatives of international organizations to all places of detention. Each year, the Government of Turkmenistan and the ICRC regional delegation in Central Asia jointly draw up an action plan as part of multilateral cooperation in the area of prisons. ICRC representatives have carried out humanitarian visits to various institutions in the prison system since 2011. Eight visits by representatives from ICRC and members of diplomatic missions accredited in Turkmenistan were carried out during this period.

21. With regard to country visits in 2016, it is worth noting the one that was made to a young offenders institution in Bayramaly on 6 December by a delegation comprised of representatives of several international organizations and ambassadors accredited in Turkmenistan from Europe and the United States of America, including: Shaheen Nilofer, Representative, United Nations Children's Fund (UNICEF) country office; Jacinta Barrins, Resident Representative, United Nations Development Programme (UNDP); Natasa Rasic, Chargé d'affaires a.i., OSCE Centre in Ashgabat; Lubomir Frebort, Chargé d'affaires, European Union Liaison Office; Richard Payne-Holmes, Second Secretary of the Embassy of the United States of America; Ambassador Margret Uebber, Embassy of Germany; Ambassador Marco Mancini, Embassy of Italy; Ambassador François Delahousse, Embassy of France; and Lynne Smith, Deputy Head, Embassy the United Kingdom of Great Britain and Northern Ireland.

22. In addition, on 31 January 2017, a delegation comprised of representatives of several international organizations and ambassadors accredited in Turkmenistan from Europe and the United States also visited the DZ-K/8 women's correctional colony of the Daşoguz Province Police Department, including: Shaheen Nilofer from UNICEF; UNDP Resident Representative Elena Panova; Natasa Rasic from OSCE; Lubomir Frebort from the European Union; Brigette Buchet, Second Secretary, Embassy of the United States; Ambassador Margret Uebber, Embassy of Germany; Dominique Gentil, First Secretary, Embassy of France; Ambassador Thorda Abbott-Watt, Embassy of the United Kingdom; and Alin Barbu, Chargé d'affaires a.i., Embassy of Romania.

Paragraph 23 (b)

23. Various laws have been adopted to render the criminal and administrative law of Turkmenistan more humane. They include the Act of 9 November 2013 amending the Criminal Code of Turkmenistan, which introduced changes to a number of articles. For example, articles 44 (Types of punishment) and 84 (Types of punishment for young offenders) of the Code were amended to provide for a new penalty: restriction of liberty. Restriction of liberty consists in a court order that imposes certain obligations on a convicted person that restrict his or her liberty; such non-custodial sentences are to be served at the convicted person's place of residence under the supervision of the penal correction authorities for a period of between 1 and 5 years.

24. The penalties stipulated under several articles of the Code have been significantly lightened, with punishments such as punitive work or deprivation of liberty being replaced with fines. Examples include articles 108 (Intentional infliction of moderately severe bodily harm), 109 (Intentional infliction of grievous or moderately severe bodily harm in the heat of passion) and 110 (Intentional infliction of grievous or moderately severe bodily harm by exceeding the limits of reasonable self-defence or while making a citizen's arrest).

25. In addition, in some cases where a criminal act was punishable by deprivation of liberty or punitive work, the length of the sentences was reduced, for example, in articles

142 (Procuring), 143 (Breach of copyright and related rights, and breach of patent) and 162 (1) (Forcing a woman to contract a marriage or impeding the contracting of a marriage).

26. Articles 112 (Battery) and 133 (Insult) were deleted from the Criminal Code. Now, only administrative liability is envisaged for these offences. Furthermore, criminal liability is incurred for the commission of the offences specified in articles 146 (Breach of privacy), 147 (Breach of the confidentiality of correspondence, telephone conversations and postal, telegraphic or other communications) and 156 (Enticement of a minor to commit an antisocial act), among others, only if a repeat offence is committed within one year of the imposition of an administrative penalty for the same act.

Paragraph 23 (c)

27. Following the adoption of the Penal Enforcement Code on 25 March 2011, the legal and regulatory instruments of the Ministry of Internal Affairs were revised and aspects relating to the detention regime, to protection and to the procedures and conditions for the custody of detainees, among many others, were brought into line with the Code.

28. Persons sentenced to deprivation of liberty serve their sentences in correctional institutions, with consideration given to the need to help them reform, maintain meaningful contact with their relatives and avoid reoffending.

29. Convicted prisoners are provided with individual hygiene items, food, bedding, medicines and other essentials, as provided for in the daily schedule, in sufficient amounts and of sufficient quality to maintain the health and strength of each inmate, all funded from the State budget.

30. A more nutritious diet is provided to prisoners who are pregnant or nursing, juveniles, those who are sick and those who have category I or II disabilities, in accordance with the presidential decision of 11 April 2014 on standards with regard to the diet and other living conditions of persons held in correctional institutions, remand centres and special rehabilitation centres.

31. Standards regarding the clothing issued to convicted prisoners, furniture and other household effects, means of communication and such like were approved in Ministry of Internal Affairs Order No. 184 of 12 July 2014.

32. Medical units have been set up within places of deprivation of liberty to provide medical care for prisoners. Those suffering from an active form of tuberculosis, alcoholism or drug or substance abuse are held and treated in secure hospitals. Compulsory treatment for prisoners suffering from alcoholism or drug or substance abuse may be administered in a correctional colony's medical unit.

33. Inmates who need specialized medical services are transferred to the central hospital of the MR-K 15 facility run by the Mary Province Police Department.

34. Medical treatment and preventive health care for prisoners are organized in close cooperation with the local health authorities and are delivered in conformity with the legislation of Turkmenistan and internal prison regulations.

35. US$ 1,794,500 was allocated from the State budget to acquire up-to-date medical equipment.

36. To maintain their health, inmates are provided with sufficient living space and adequate access to air and light. The levels of lighting, heating, ventilation and general comfort in detention facilities correspond to those required to protect inmates' health. Sufficient artificial light is provided for prisoners to read or work without injury to their eyesight.